

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

IN RE:)
)
EASTERN LIVESTOCK CO., LLC,) Case No. 10-93904-BHL-11
)
Debtor.)

**THIRD INTERIM APPLICATION OF KROGER, GARDIS & REGAS, LLP FOR
COMPENSATION AND REIMBURSEMENT OF EXPENSES
AS SPECIAL COUNSEL TO CHAPTER 11 TRUSTEE**

Kroger, Gardis & Regas, LLP ("KGR"), as special counsel to James A. Knauer, the chapter 11 trustee appointed in this case ("Trustee") hereby makes its third interim application ("Application") for the allowance and payment of its fees incurred as special counsel to the Trustee and for reimbursement of out-of-pocket expenses advanced by KGR. In support of this Application, KGR states as follows:

1. Petitioning creditors commenced the above-captioned Chapter 11 case ("Chapter 11 Case") against Debtor on December 6, 2010 ("Petition Date") by filing an involuntary petition for relief under Chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. ("Bankruptcy Code"). This Court entered its *Order For Relief In An Involuntary Case And Order To Complete Filing* on December 28, 2010 (ECF No. 110).

2. On December 27, 2010, the Court entered its *Order Approving The Appointment Of James A. Knauer As Chapter 11 Trustee* (ECF No. 102), ("Trustee Order"), approving the United States Trustee's *Notice Of Appointment And Application for Order Approving Appointment of Trustee* (ECF No. 98) pursuant to 11 U.S.C. § 1104.

3. On February 12, 2012, the Trustee filed his *Application to Employ Kroger, Gardis & Regas, LLP as Special Counsel to the Trustee*, and attached a proposed letter agreement ("Fee Letter Agreement") detailing fees under which KGR would serve as the Trustee's special counsel.

4. Following Notice, the Court entered its *Order Granting Application to Employ Kroger, Gardis & Regas, LLP as Special Counsel to the Trustee* on March 13, 2012, pursuant to the terms of the Fee Letter Agreement attached to the Application.

5. Following the entry of the Court's Order, KGR has acted as special counsel to the Trustee in the investigation of various claims on behalf of the Debtor's bankruptcy estate, and has pursued avoidance actions, promissory note collection cases, and foreclosure actions on behalf of the Trustee and the estate.

6. This Application is the third interim application filed by KGR seeking compensation for actual, necessary services rendered by KGR on behalf of the Trustee and reimbursement of out-of-pocket expenses advanced by KGR on behalf of the Trustee for the period March 1, 2013 through and including August 31, 2013.

7. KGR has performed a variety of services on behalf of the Trustee, all of which are described in detail in the billing statements attached as **Exhibit A**.

8. The Fee Letter Agreement between the Trustee and KGR sets forth a fee arrangement whereby:

- (a) KGR's attorneys would charge an hourly rate of \$175.00 per hour (well below KGR's normal rates in matters such as these);

(b) KGR would also be entitled to seek an additional contingent fee of 25% of any recovery, provided that the total fee does not exceed 2 1/2 times KGR's standard hourly rates.

9. **Exhibit A** provides the detail of the time and the normal hourly billing rate for each attorney and paralegal in each case being handled by KGR, as well as time expended in the general litigation of these matters. **Exhibit B** provides a summary worksheet of the time in each of these cases, and the billing for that case pursuant to the KGR fee arrangement set forth in the Fee Letter Agreement. A summary of the fees requested by KGR, including the number of hours worked, the billing rate requested and the total fees claimed, is set forth below:

Attorney	Rate	Hours	Value
Jay P. Kennedy	\$175.00	193.70	\$33,897.50
Justin W. Leverton	\$175.00	5.60	\$980.00
Jennifer L. Watt	\$175.00	523.50	\$91,612.50
Amanda D. Stafford	\$175.00	432.10	\$75,617.50
Tammy J. Froelich (paralegal)	\$125.00	70.90	\$8,862.50
Harley K. Means	\$175.00	14.40	\$2,520.00
Steven E. Runyan	\$175.00	185.60	\$32,480.00
Jordan Isaac (paralegal)	\$125.00	1.30	\$162.50
Total Hours		1427.10	\$246,132.50

10. KGR has advanced the sum of \$1,919.43 for out-of-pocket expenses incurred in connection with this case during the period from March 1, 2013 through and including August 31, 2013. A summary of the out-of-pocket expenses incurred by the Trustee is set forth at **Exhibit C**.

11. In addition to the above set forth fees and expenses, KGR makes application for an award of a contingent fee pursuant to the letter agreement attached to Application to employ KGR. Specifically, in addition to the discounted hourly fees, KGR

is entitled to apply for a further award of twenty-five percent (25%) of any recoveries. KGR has submitted the following Settlement Agreements to the Court for approval, and has collected on or before October 15, 2013, and turned over to the Trustee, the amounts shown below:

<u>Case</u>	<u>Recovery</u>	<u>25.00%</u>
Martin Pringle	\$10,000.00	\$2,500.00
Tim White	\$6,634.97	\$1,658.74
Chastain Feeds	\$5,000.00	\$1,250.00
Thompson Beef	\$30,000.00	\$7,500.00
David Phillips	\$525,000.00	\$131,250.00
NW Alabama	\$7,000.00	\$1,750.00
Eastern Cattle Co.	\$145,823.60	\$36,455.90
B&B/Ganado	\$20,000.00	\$5,000.00
Animal Profiling	\$6,299.70	\$1,574.93
Total	\$745,758.27	\$187,939.57

The percentage amount set forth above is subject to a cap 2 1/2 times KGR's standard rates. The chart attached hereto as **Exhibit D** details the reduction of certain percentage fees as they are in excess of the cap. The reductions pursuant to the cap total \$114,683.31. KGR therefore seeks, in addition to its hourly fees detailed above, an award of a contingent fee in the sum of \$73,756.26.

12. This Application is the third application of KGR for interim compensation. Previously the Court has awarded compensation and reimbursement of expenses to KGR as follows:

(a) Pursuant to the *Order Granting First Interim Application of Kroger, Gardis & Regas, LLP for Compensation and Reimbursement of Expenses as Special Counsel to Chapter 11 Trustee* (ECF No. 1650) ("First Interim Compensation Order"), the Court approved KGR's hourly fees and expenses incurred, and contingent fees earned, for the period February 21, 2012 through and including October 31, 2012, in the amounts of \$45,287.50, \$1,833.89 and \$8,804.65 respectively. KGR has been paid \$54,699.79 on account of the fees and expenses approved by the First Interim Compensation Order.

(b) Pursuant to the *Order Granting Second Interim Application of Kroger, Gardis & Regas, LLP for Compensation and Reimbursement of Expenses as Special Counsel to Chapter 11 Trustee* (ECF No. 2346) ("Second Interim Compensation Order"), the Court approved KGR's hourly fees and expenses incurred for the period November 1, 2012 through and including February 28, 2013 in the amounts of \$167,927.50 and \$1,833.89 respectively. KGR has been paid \$106,681.85 on account of the fees and expenses approved by the Second Interim Compensation Order.

13. No agreement or understanding exists between KGR and any other person or entity for the sharing of compensation received for services rendered in connection with this case.

14. All services rendered and all expenses incurred for which compensation or reimbursement is sought have been rendered or incurred exclusively by KGR and represent necessary and proper services rendered in the administration of this Chapter 11 Case.

WHEREFORE, Kroger, Gardis & Regas, LLP requests (i) the Court award compensation to KGR on account of its actual and necessary hourly fees in the amount of \$246,132.50; (ii) the Court order reimbursement for out-of-pocket expenses incurred in the amount of \$1,919.43; (iii) the Court award a contingent fee to KGR as described above in the amount of \$73,756.26, totaling \$321,808.19; and (iii) grant KGR all other just and proper relief.

Respectfully submitted,

KROGER, GARDIS & REGAS, LLP

/s/ Jay P. Kennedy

Jay P. Kennedy, special counsel for
James A. Knauer, Trustee

Jay P. Kennedy
KROGER, GARDIS & REGAS, LLP
111 Monument Circle, Suite 900
Indianapolis, IN 46204-5125
317-692-9000
jpk@kgrlaw.com

CERTIFICATE OF SERVICE

I hereby certify that on October 24, 2013, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

Laura Day
10DelCotto ldelcotto@dlgfirm.com,
dlgecf@dlgfirm.com;dlgecf@gmail.com

David L. Abt
davidabt@mwt.net

Amelia Martin Adams
aadams@dlgfirm.com,
dlgecf@dlgfirm.com;dlgecf@gmail.com

John W Ames
james@bgdlegal.com,
smays@bgdlegal.com;mills@bgdlegal.com

Jerald I. Ancel
jancel@taftlaw.com,
ecfclerk@taftlaw.com;krussell@taftlaw.com
Kay Dee Baird
kbaird@kdlegal.com,
pdidandeh@kdlegal.com

T. Kent Barber
kbarber@dlgfirm.com,
dlgecf@dlgfirm.com;dlgecf@gmail.com

Robert A. Bell
rabell@vorys.com,
dmchilelli@vorys.com

C. R. Bowles
cbowles@bgdlegal.com,
smays@bgdlegal.com;cjenkins@bgdlegal.com

David W. Brangers
dbrangers@lawyer.com

Steven A. Brehm
sbrehm@bgdlegal.com,
bbaumgardner@bgdlegal.com;smays@bgdlegal.com

Kent A Britt
kabritt@vorys.com,
cbkappes@vorys.com;dfhine@vorys.com;tbfinney@vorys.com

Kayla D. Britton
kayla.britton@faegrebd.com,
sharon.korn@faegrebd.com;sarah.herendeen@faegrebd.com

Joe Lee Brown
Joe.Brown@Hardincounty.biz

Lisa Koch Bryant
courtmail@fbhlaw.net

John R. Burns
john.burns@faegrebd.com,
sandy.rhoads@faegrebd.com;oliana.nansen@faegrebd.com

Deborah Caruso
dcaruso@daleeke.com,
mthomas@daleeke.com

Ben T. Caughey
ben.caughey@icemiller.com

Bret S. Clement
bclement@acs-law.com,
sfinnerty@acs-law.com

Joshua Elliott Clubb
joshclubb@gmail.com

Jason W. Cottrell
jwc@stuartlaw.com,
jbr@stuartlaw.com

Kirk Crutcher
kcrutcher@mcs-law.com,
jparsons@mcs-law.com

Jack S Dawson
jdawson@millerdollarhide.com,
jowens@millerdollarhide.com;receptionist@millerdollarhide.com

Dustin R. DeNeal
dustin.deneal@faegrebd.com,
sandy.engle@faegrebd.com;sarah.herendeen@faegrebd.com

David Alan Domina
dad@dominalaw.com,
KKW@dominalaw.com;efiling@dominalaw.com

Daniel J. Donnellon
ddonnellon@ficlaw.com,
knorwick@ficlaw.com

Trevor L. Earl
tearl@rwsvlaw.com

Shawna M Eikenberry
shawna.eikenberry@faegrebd.com,
sarah.herendeen@faegrebd.com

Jeffrey R. Erler
jerler@gjhhlaw.com,
lbell@gjhhlaw.com;ldelcore@gjhhlaw.com

William K. Flynn
wkflynn@strausstroy.com,
fmtuttle@strausstroy.com;rishapiro@strausstroy.com

Robert H. Foree
robertforee@bellsouth.net

Sandra D. Freeburger
sfreeburger@dsf-atty.com,
mbaker@dsf-atty.com

Peter M Gannott
pgannott@gannottlaw.com,
paralegal@gannottlaw.com;gannottlaw@gmail.com

Melissa S. Giberson
msgiberson@vorys.com

Thomas P Glass
tpglass@strausstroy.com

Jeffrey J. Graham
jgraham@taftlaw.com,
ECFClerk@taftlaw.com;dwineinger@taftlaw.com;krussell@taftlaw.com;aolave@taftlaw.com

Terry E. Hall
terry.hall@faegrebd.com,
sharon.korn@faegrebd.com;sarah.herendeen@faegrebd.com

Paul M. Hoffmann
phoffmann@stinson.com

John David Hoover
jdhoover@hooverhull.com

John Huffaker
john.huffaker@sprouselaw.com,
lynn.acton@sprouselaw.com;rhond
a.rogers@sprouselaw.com

Jeffrey L Hunter
jeff.hunter@usdoj.gov,
USAINS.ECFBankruptcy@usdoj.g
ov

Jay Jaffe
jay.jaffe@faegrebd.com,
sarah.herendeen@faegrebd.com

James Bryan Johnston
bjtexas59@hotmail.com,
bryan@ebs-law.net

Todd J. Johnston
tjohnston@mcjllp.com

Jill Zengler Julian
Jill.Julian@usdoj.gov

Edward M King
tking@fbtlaw.com,
dgioffre@fbtlaw.com

Erick P Knoblock
eknoblock@daleeke.com

Theodore A Konstantinopoulos
ndohbky@jbandr.com

Randall D. LaTour
RDLatour@vorys.com,
khedwards@vorys.com;bjtobin@vo
rys.com

David A. Laird
david.laird@moyewwhite.com,
lisa.oliver@moyewwhite.com;deann
e.stoneking@moyewwhite.com

David L. LeBas
dlebas@namanhowell.com,
koswald@namanhowell.com

Martha R. Lehman
mlehman@kdlegal.com,
crbpgpleadings@kdlegal.com;ewor
thington@kdlegal.com

Scott R Leisz
sleisz@bgdlegal.com,
disom@bgdlegal.com

Elliott D. Levin
robin@rubin-levin.net,
edl@trustesolutions.com;edl@trust
esolutions.net

Kim Martin Lewis
kim.lewis@dinslaw.com,
lisa.geeding@dinslaw.com;patrick.

burns@dinslaw.com

James B. Lind
jblind@vorys.com

Karen L. Lobring
lobring@msn.com

John Hunt Lovell
john@lovell-law.net,
sabrina@lovell-
law.net;shannon@lovell-
law.net;paula@lovell-law.net

Harmony A Mappes
harmony.mappes@faegrebd.com,
judith.gilliam@faegrebd.com;sarah.
herendeen@faegrebd.com

John Frederick Massouh
john.massouh@sprouselaw.com

Michael W. McClain
mike@kentuckytrial.com,
laura@kentuckytrial.com

Kelly Greene McConnell
lisahughes@givenspursley.com

James Edwin McGhee
mcghee@derbycitylaw.com,
SeillerWatermanBankruptcymyecf
@gmail.com;belliott@derbycitylaw.
com;patenaude@derbycitylaw.com
;cantor@derbycitylaw.com

Brian H Meldrum
bmeldrum@stites.com

William Robert Meyer
rmeyer@stites.com

Kevin J. Mitchell
kevin.mitchell@faegrebd.com,
cyndy.maucher@faegrebd.com;oli
ana.nansen@faegrebd.com

Terrill K. Moffett
kendalcantrell@moffettlaw.com

Christie A. Moore
cm@gdm.com, ljs2@gdm.com

Allen Morris
amorris@stites.com,
dgoodman@stites.com

Judy Hamilton Morse
judy.morse@crowedunlevy.com,
ecf@crowedunlevy.com;donna.hin
kle@crowedunlevy.com;karol.brow
n@crowedunlevy.com

Matthew Daniel Neumann
mneumann@hhclaw.com

Walter Scott Newbern
wsnewbern@msn.com

Shiv Ghuman O'Neill
shiv.oneill@faegrebd.com,
amanda.castor@faegrebd.com

Matthew J. Ochs
kim.maynes@moyewwhite.com

Michael Wayne Oyler
moyler@rwsvlaw.com

Ross A. Plourde
ross.plourde@mcafeetaft.com,
afton.shaw@mcafeetaft.com

Brian Robert Pollock
bpollock@stites.com

Wendy W Ponader
wendy.ponader@faegrebd.com,
sarah.herendeen@faegrebd.com

Timothy T. Pridmore
tpridmore@mcjllp.com,
lskibell@mcjllp.com

Anthony G. Raluy
traluy@fbhlaw.net

Eric C Redman
ksmith@redmanludwig.com,
kzwickel@redmanludwig.com;mye
cfmailrl@gmail.com

Eric W. Richardson
ewrichardson@vorys.com,
bjtobin@vorys.com

Joe T. Roberts
jratty@windstream.net

Mark A. Robinson
mrobinson@vhrlaw.com,
dalbers@vhrlaw.com

Jeremy S Rogers
Jeremy.Rogers@dinslaw.com

John M. Rogers
johnr@rubin-levin.net,
susan@rubin-levin.net

Joseph H Rogers
jrogers@millerdollarhide.com,
cdow@millerdollarhide.com

James E Rossow
jim@rubin-levin.net, susan@rubin-
evin.net;ATTY_JER@trustesolutio
ns.com

Steven Eric Runyan
ser@kgrlaw.com

Thomas C Scherer
tscherer@bgdlegal.com,
mmccclain@bgdlegal.com

Stephen E. Schilling
seschilling@strausstroy.com

Ivana B. Shallcross
ishallcross@bgdlegal.com,
smays@bgdlegal.com;tmills@bgdlegal.com;acoates@bgdlegal.com

James E. Smith
jsmith@smithakins.com,
legalassistant@smithakins.com

William E Smith
wsmith@k-glaw.com, pballard@k-glaw.com

Amanda Dalton Stafford
ads@kgirlaw.com

Robert K Stanley
robert.stanley@FaegreBD.com

Joshua N. Stine
kabritt@vorys.com

Andrew D Stosberg
astosberg@lloydmc.com

Matthew R. Strzynski
mstrzynski@kdlegal.com,
Tsylvester@kdlegal.com

Meredith R. Thomas
mthomas@daleeke.com

John M. Thompson
john.thompson@crowedunlevy.com,
jody.moore@crowedunlevy.com,do
nna.hinkle@crowedunlevy.com

Kevin M. Toner
kevin.toner@faegrebd.com,
judy.ferber@faegrebd.com;crystal.
hansen@faegrebd.com

Christopher M. Trapp
ctrapp@rubin-levin.net,
carmen@rubin-
levin.net;lemerson@rubin-levin.net

Chrisandrea L. Turner
clturner@stites.com

U.S. Trustee
ustpreregion10.in.ecf@usdoj.gov

Andrew James Vandiver
avandiver@aswdlaw.com,
sgoins@aswdlaw.com;jrobb@asw
dlaw.com

Andrea L Wasson
andrea@wassonthornhill.com

Jennifer Watt
jwatt@kgirlaw.com,
pad@kgirlaw.com;ads@kgirlaw.com

Stephen A. Weigand
sweigand@ficlaw.com

Charles R. Wharton
Charles.R.Wharton@usdoj.gov,
Charles.R.Wharton@usdoj.gov

Sean T. White
swhite@hooverhull.com,
vwilliams@hooverhull.com

Michael Benton
Willey michael.willey@ag.tn.gov

Jessica E. Yates
jyates@swlaw.com,
docket_den@swlaw.com;mmccleer
y@swlaw.com

James T Young
james@rubin-levin.net,
lemerson@rubin-
levin.net;carmen@rubin-levin.net

I further certify that on October 24, 2013 a copy of the foregoing pleading was mailed by first-class U.S. Mail, postage prepaid and properly addressed, to the following:

Bob's Auto, Inc. d/b/a Bob's Auto Supply
PO Box 419
Edmonton, KY 42129

PO Box 15008
Amarillo, TX 79105-5008

Bovine Medical Associates, LLC
1500 Soper Road
Carlisle, KY 40311

James Kilroy
Snell & Wilmer LLP
1200 17th Ste
Ste 1900
Denver, CO 80202

Adam R Burrus
Fleeson Gooing Coulson & Kitch LLC
301 N Main
Suite 1900
Wichita, KS 67202

Justice B King
Fisher, Patterson, Sayler & Smith
3550 S.W. Fifth St
PO Box 949
Topeka, KS 66601-0949

Ron C Campbell
Fleeson, Gooing, Coulson & Kitch
125 N Market St
Ste 1600
PO Box 997
Wichita, KS 67201

Thomas J Lasater
301 N Main
Ste 1900
PO Box 997
Wichita, KS 67201

Ike's Trucking, Inc.
Ike and Cherie Jacobs
3087 Ervin Town Rd.
Castlewood, VA 24224

David A. Layson
102 North Capitol Avenue
Corydon, IN 47112

David M Jones
Sprouse, Shrader & Smith PC

Terry L Malone
Martin, Pringle, Oliver,

Wallace & Swartz LLP
100 North Broadway
Ste 500
Wichita, KS 67202

National Cattlemen's Beef Association
Alice Devine
Devine & Donley, LLC
534 S KS Ave Suite 1420
Topeka, KA 66603

Bryan K Nowicki
Reinhart Boerner Van Deuren s.c.
22 E Mifflin St., Ste 600
Madison, WI 53703

Mark A Rondeau
1321 Main Suite 300
P O Drawer 1110
Great Bend, KS 67530

Ashley S Rusher
Blanco Tackabery & Matamoros PA
PO Drawer 25008
Winston-Salem, NC 27114-5008

Ann Ustad Smith
Michael Best & Friedrich
1 S Pinckney St #900 PO Box 1806
Madison, WI 53701

Southeastern Livestock Network LLC
176 Pasadena Drive
Lexington, KY 40503

Alex R Voils
PO Box 640
Zionsville, IN 46077

/s/ Jay P. Kennedy
Jay P. Kennedy, Attorney No. 5477-49
Counsel for James A. Knauer, Trustee

KROGER, GARDIS & REGAS, LLP
111 Monument Circle, Suite 900
Indianapolis, Indiana 46204-5125
(317) 692-9000 Telephone